

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

GOOGLE, INC.

and

Case 32-CA-164766

(b)(6) (b)(7)(C), an Individual

and

**GOOGLE INC., AND NEST LABS, INC., A
SINGLE EMPLOYER**

and

Case 32-CA-176462

(b)(6) (b)(7)(C), an Individual

**ORDER CONSOLIDATING CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board (the Board) and to avoid unnecessary costs or delay, IT IS ORDERED THAT Case 32-CA-164766, which is based on a charge filed by **(b)(6) (b)(7)(C)**, an Individual, **(b)(6) (b)(7)(C)** against Google, Inc. (Respondent Google) and Case 32-CA-176462, which is based on a charge filed by **(b)(6) (b)(7)(C)**, an Individual **(b)(6) (b)(7)(C)**, against Google, Inc., and Nest Labs, Inc., a single employer, (Respondent Google/Nest), are consolidated.

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq. and Section 102.15 of the Board's Rules and Regulations, and alleges that Respondent Google and/or Respondent Nests have violated the Act as described below.

1.

(a) The charge in Case 32-CA-164766 was filed by (b)(6) (b)(7)(C) on November 23, 2015, and a copy was served on Respondent Google by regular mail on that same date.

(b) A first-amended charge in Case 32-CA-164766 was filed by (b)(6) (b)(7)(C) on March 1, 2016, and a copy was served on Respondent Google by regular mail on March 2, 2017.

(c) The charge in Case 32-CA-176462 was filed by (b)(6) (b)(7)(C) on May 17, 2016, and a copy was served on Respondent Google/Nest by regular mail on May 18, 2016.

2.

(a) At all material times, Respondent Google, a corporation with an office and place of business in Mountain View, California (Respondent Google's Facility), has been engaged in the provision of internet search engine results and the retail sale of advertisements and related products to the general public.

(b) At all material times, Respondent Nest Labs, Inc., a corporation with an office and place of business in Mountain View, California (Respondent Nest's Facility), has been engaged in the retail sale and manufacture of home security products, home energy products and related products to the general public.

(c) At all material times, Respondent Google and Respondent Nest Labs, Inc. have been affiliated business enterprises with common officers, ownership, directors, management, and supervision; have formulated and administered a common labor policy; have shared common premises and facilities; have provided services for and made sales to each other; have interchanged personnel with each other; have interrelated operations with common use of

intranet systems, employee programs, and facilities; and have held themselves out to the public as a single-integrated business enterprise.

(d) Based on its operations described above in paragraph 2(a) through 2(c), Respondent Google and Respondent Nest Labs, Inc. (Respondent Google/Nest) constitute a single-integrated business enterprise and a single employer within the meaning of the Act.

(e) In conducting their respective operations during the 12-month period ending on March 31, 2017, Respondent Google and Respondent Google/Nest each derived gross revenues in excess of \$500,000.

(f) In conducting its operations during the 12-month period ending on March 31, 2017, Respondent Google sold and shipped from Respondent Google's Facility, products, goods, and materials valued in excess of \$5,000 directly to points outside the State of California.

(h) In conducting its operations during the 12-month period ending on March 31, 2017, Respondent Google/Nest sold and shipped from Respondent Google/Nest's Facility, products, goods, and materials valued in excess of \$5,000 directly to points outside the State of California.

4.

(a) At all material times, Respondent Google has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

(b) At all material times, Respondent Google/Nest has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5.

(a) At all material times, the following individuals held the positions set forth opposite their respective names and have been managers or supervisors of Respondent Google

within the meaning of Section 2(11) of the Act and agents of Respondent Google within the meaning of Section 2(13) of the Act:

(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C) (b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)

(b) At all material times, the following individuals held the positions set forth opposite their respective names and have been managers or supervisors of Respondent Google/Nest within the meaning of Section 2(11) of the Act and agents of Respondent Google/Nest within the meaning of Section 2(13) of the Act:

(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)
(b)(6) (b)(7)(C)	-	(b)(6) (b)(7)(C)

6.

At all material times since September 1, 2015, until about November 1, 2016, as to Respondent Google, and at all material times since November 17, 2015, until about November 1, 2016, as to Respondent Google/Nest, Respondents maintained the following rules and/or policies:

(a) A rule regarding confidentiality in the "Data Classification Guidelines" and related "Data Security Policy," which prohibit employees from discussing their wages and other employee information by defining "All Employee Data" as "Confidential Information" and "Need-to-Know Information," expressly including "Recruiting Information," Performance

Compensation & Benefits Information,” and “Employment Records,” and restricting disclosure of such “Need-to-Know Information” to authorized individuals who need to know the information to perform their job. Copies of the “Data Classification Guidelines” and the “Data Security Policy” are attached as Exhibits 1(a) and 1(b), respectively. The portions of the “Data Classification Guidelines” and the related “Data Security Policy” alleged to be unlawful are highlighted in Exhibits 1(a) and 1(b).

(b) A rule regarding confidentiality under the heading “Preserve Confidentiality” in Section IV of the “Google Code of Conduct,” which restricts disclosure of “confidential information” and/or “need to know” information and requires employees to “apply your best judgment in making sure you don’t disclose confidential information” and instructs employees not to “tell your significant other or family members anything confidential.” These restrictions on the discussion of “confidential” and “need to know” information are overly broad in light of the unlawful provisions regarding “Confidential Information” and “Need to Know Information” in the “Data Classification Guidelines.”

(c) A rule regarding confidentiality under the heading “Outside Communication and Research” in Section IV of the “Google Code of Conduct,” set forth below, which is overly broad in light of the unlawful provisions regarding “Confidential Information” and “Need to Know Information” in the “Data Classification Guidelines:”

You probably know that our policy is to be extremely careful about disclosing company information, and never to disclose any confidential information without authorization.

(d) A rule regarding “Employee Data” under Section V of the “Google Code of Conduct,” set forth below, which is overly broad in light of the unlawful provisions regarding

“Confidential Information” and “Need to Know Information” in the “Data Classification Guidelines:”

(b) (4)

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(e) A confidentiality provision in the “Google At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement” which provides as follows:

(b) (4)

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(b) (4)

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(f) A rule regarding “Conflicting Employment” in the “Google At-Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement” which provides as follows:

(b) (4)

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(g) A rule regarding “Outside Communication and Research” in Section IV of the “Google Code of Conduct” which provides as follows:

(b) (4)

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(h) A rule requiring employees to “Avoid Conflict of Interest” in Section III of the “Google Code of Conduct” which provides as follows:

(b) (4)

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(b) (4)



(i) A rule regarding “Company Equipment” in Section V of the “Google Code of Conduct” entitled “Protect Google’s Assets” which provides as follows:

(b) (4)



(j) A rule requiring employees to “Respect Each Other” in Section 2 of the “Google Code of Conduct” which provides as follows:

(b) (4)



(k) A rule in the “Appropriate Conduct Policy” which provides as follows:

(b) (4)



(b) (4)



(I) A rule regarding confidentiality in the “Google Employee Communications Policy” which provides as follows:

(b) (4)



(b) (4)



(m) A rule regarding “Internal Googler Communications” in the “Google
Employee Communications Policy,” which provides as follows:

(b) (4)



(b) (4)

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- (n) A “Corporate Services Security Policy” which provides as follows:

(b) (4)

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(b) (4)



(o) Various rules regarding external communications are set forth in the “Employee Communications Policy,” Part 3, “External Communications,” which impose restrictions upon employees’ rights to engage in protected speech and/or criticism of Respondent Google and Respondent Google/Nest. “External Communications” is attached as Exhibit 2, with the portions alleged to be unlawful highlighted.

7.

Respondent Google:

(a) On August 6, 2015, by its (b)(6) (b)(7)(C), through a written posting on its intranet website G+, threatened employees with unspecified acts of reprisal by instructing an employee to stop engaging in protected, concerted activities.

(b) About August 19, 2015, Respondent Google, by its (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) threatened an employee with unspecified acts of reprisal by instructing an employee to stop engaging in protected, concerted activities.

8.

Respondent Google/Nest:

(a) By its legal representative:

(i) On March 24, 2016, by email to all Respondent Google/Nest employees, threatened employees with termination and legal action for engaging in protected, concerted activities and created an impression that their concerted activities were under surveillance; and

(ii) On April 18, 2016, at an all-hands meeting broadcast to all Respondent Google/Nest employees, created the impression that their protected concerted activities were under surveillance and threatened and coerced employees by announcing a confidentiality policy that restricted employees' rights to engage in protected speech.

(b) By (b)(6) (b)(7)(C), Respondent Google's (b)(6) (b)(7)(C)

(b)(6) (b)(7)(C)

(i) On April 18, 2016, during an all-hands meeting which was broadcast to all Respondent Google/Nest employees, created an impression that their protected concerted activities were under surveillance and threatened and coerced employees by asking them to report other employees for engaging in protected concerted activities;

(ii) On May 6, 2016, in an email sent to all Respondent Google and Respondent Google/Nest employees, created the impression that their protected concerted activities were under surveillance and threatened and coerced employees by asking them to report other employees for engaging in protected concerted activities, threatened employees with termination for engaging in protected, concerted activities, and announced rules regarding confidentiality that restricted employees' rights to engage in protected speech.

9.

(a) On (b)(6) (b)(7)(C) 2015, Respondent Google's employee, (b)(6) (b)(7)(C) engaged in protected concerted activities for the purposes of mutual aid and protection by posting comments on Respondent Google's intranet website G+, regarding workplace diversity and social justice initiatives, workplace policy viewpoints, and regarding employees' rights to express their

opinions on G+, and by sending an email to Respondent's (b)(6) (b)(7)(C), regarding these matters.

(b) About (b)(6) (b)(7)(C) 2015, Respondent Google issued a final written warning to (b)(6) (b)(7)(C)

(c) Respondent Google engaged in the conduct described above in paragraph 9(b) because (b)(6) (b)(7)(C) engaged in the conduct described above in paragraph 9(a), and to discourage employees from engaging in these or other concerted activities.

10.

By the conduct described above in paragraphs 6, 7, 8, and 9, Respondent Google has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

11.

By the conduct described above in paragraphs 6 and 8, Respondent Google/Nest has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

12.

The unfair labor practices of Respondent Google and Respondent Google/Nest described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

SPECIAL REMEDIES

WHEREFORE, as part of the remedy for violations alleged above, the General Counsel seeks an Order requiring Respondents to rescind their overly broad or otherwise unlawful policies on a nationwide basis, post a remedial Notice to Employees on a nationwide basis, and post the same Notice on Respondents' Intranet and/or electronic bulletin board, and email the

Notice to employees nationwide consistent with Respondents' normal methods of communicating with employees. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Consolidated Complaint. The answer must be **received by this office on or before May 11, 2017, or postmarked on or before May 12, 2017.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

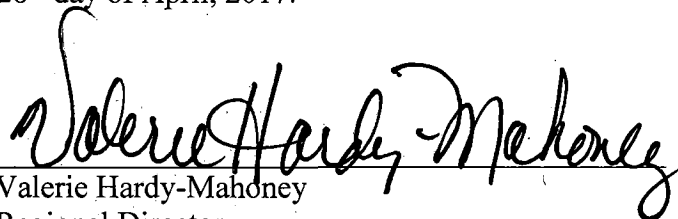
An answer may also be filed electronically through the Agency's website. To file electronically, go to www.nlrb.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer

containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on July 18, 2017, at 9:00 a.m., at the Oakland Regional Office, located at 1301 Clay Street, Suite 300N, in Oakland, California 94612-5224, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT Oakland, California, this 28th day of April, 2017.



Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
1301 Clay Street Suite 300N
Oakland, CA 94612-5224

Attachments